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10/688,261	10/17/2003	Norbert Hahn	P-US-PR-1088	4594

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EXAMINER

WEEKS, GLORIA R

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3721

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/688,261
Filing Date: October 17, 2003
Appellant(s): HAHN, NORBERT

Kofi A. Schulterbrandt
For Appellant

EXAMINER'S ANSWER

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This is in response to the appeal brief filed December 21, 2010 appealing from the Office action mailed June 10, 2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application: 1, 3-7, 9, 10, 12-25 and 33.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except

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for the grounds of rejection (if any) listed under the subheading “WITHDRAWN REJECTIONS.” New grounds of rejection (if any) are provided under the subheading “NEW GROUNDS OF REJECTION.”

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant’s brief.

(8) Evidence Relied Upon

5,820,136	HAN et al.	10-1998
5,921,563	HUGGINS et al.	07-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 3-7, 9, 10, 12-19 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Han et al. (USPN 5,820,136).

In reference to claims 1, 3-7, 9, 12-19 and 33, Han et al. discloses a tool holder comprising: a tubular main body 16 defining a forward direction extending toward a forward end where a tool 28 is inserted into or removed from the main body 36; an first and second (figure 5) elongated locking elements 18 that define a sleeve, the first and second locking elements pivotably mounted at a pivot point 60 on an exterior surface of the main body 16, the locking elements including a forward portion including an engaging portion 70 located forward of the pivot point between the pivot point 60 and the forward end of the main body 16, the engaging portions 70 pivotably moveable between a radially inner locked position (figure 4) within a recess 72 of the main body 16, and a radially outer unlocked position (figure 2) which enables a tool to be inserted into or removed from the main body; the locking elements 18 further

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including a radially outward portion 24 engaged by a radially inward portion 66 a manually actuatable sleeve 36; a retaining ring 12 independently movable 44 from the manually actuatable sleeve 36 which is mounted around the main body 16, the actuatable sleeve 36 is moveable between a first position (figure 4) in which the engaging portions of the locking elements are held in the locked position and a second position (figure 2) in which the engaging portions of the locking elements are moveable to the unlocked position; wherein the manually actuatable sleeve 36 is axially slidably mounted along the main body 16 against the force of a spring member 38; and a resilient ring portion of the locking elements 18.

In reference to claims 1, 3-5 and 10, Han et al. discloses a tool holder comprising: a tubular main body 12 defining a forward direction extending toward a forward end where a tool 28 is inserted into or removed from the main body 12; radial outward projections 60 of the main body 12 that engage a recess 57 of first and second (figure 5) elongated locking elements 18 that define a sleeve, the first and second locking elements pivotably mounted at a pivot point defined by the engaging portions 60 on an exterior surface of the main body 12, the locking elements including a forward portion including an engaging portion 70 located forward of the pivot point between the pivot point and the forward end of the main body 12, the engaging portions 70 pivotably moveable between a radially inner locked position (figure 4), and a radially outer unlocked position (figure 2) which enables a tool to be inserted into or removed from the main body; the radially outward engaging portions 60 of the locking elements are engaged by a radially inward portion 59 of a manually actuatable sleeve 36; a retaining ring 16 independently movable from the manually actuatable sleeve 36 which is mounted around the main body 12, the actuatable sleeve 36 is moveable between a first position (figure 4) in which the engaging portions

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of the locking elements are held in the locked position and a second position (figure 2) in which the engaging portions of the locking elements are moveable to the unlocked position; wherein the manually actuatable sleeve 36 is axially slidably mounted along the main body 12 against the force of a spring member 38; and a resilient ring portion of the locking elements 18.

Claims 1, 20-25 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Huggins et al. (USPN 5,921,563).

Regarding claims 1, 20-25 and 33, Huggins et al. discloses a tool holder comprising: a tubular main body 18 defining a forward direction extending toward a forward end where a tool 16 is inserted into or removed from the main body 18; an elongated locking element 32 pivotably mounted 64 at a pivot point on an exterior surface of the main body 18, the locking element 32 including a forward portion including an engaging portion 40 located forward of the pivot point 64 between the pivot point and the forward end of the main body 18, the engaging portion 40 pivotably moveable between a radially inner locked position (column 4), in which the engaging portion is engageable with a retaining collar of the tool 16, and a radially outer unlocked position (figure 3), which enables a tool 16 to be inserted into or removed from the main body 18; and a manually actuatable sleeve 70 including a locking member 82, the sleeve is mounted around the main body 18 so as to be moveable between a first position in which the engaging portion 40 of the locking element is held in the locked position and a second position in which the engaging portion of the locking element is moveable to the unlocked position; wherein the manually actuatable sleeve 70 is axially slidably mounted along the main body 18; a radial hole 46 defined in the main body 18 that is axially longer than a radially inwardly extending engaging portion 47 of the locking element; and a spring biased 72 retaining ring 74; and a retaining collar 16.

(10) Response to Argument

With respect to the rejection of claims 1, 3-7, 9, 10, 12-19 and 33, Examiner maintains that Han et al. discloses a radially inner locked position as claimed.

As indicated on page 6 of Appellant's arguments filed on December 21, 2010, the primary argument against the disclosure of Han et al. appears to be whether engaging portions 70 are capable of being "engagable" with a retaining collar of a tool. During patent examination of the claims, the pending claims must be given their broadest reasonable interpretation consistent with the specification.¹ Moreover, while the claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allow.²

In this case, the phrase "engagable" has been interpreted as a state of being lockable with, or lockable to.³ As illustrated in figure 4 of Han et al. and stated in column 6 lines 19-31, upon insertion of a tool into main body 16, engaging portion(s) 70 are pivoted in a first direction to an "engaged" position such that a tool is locked with to the tool holder. Likewise, pivoting of the engaging portion(s) 70 in a second and opposing direction permit the tool to be disengaged or unlocked from the tool holder. The existence of an intermediate structure, such as the main body 16, between the engaging portion(s) 70 and any surface of the tool does not negate the fact that the engaging portion(s) 70 engage the tool as defined; particularly since the existence of the intermediate structure does not interfere with the ability of the engaging portions 70 to lock the

¹ Phillips v. AWH Corp., 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005). See also MPEP § 2111.

² In re Am. Acad. of Sci. Tech Ctr., 367 F.3d 1359, 1369, 70 USPQ2d 1827, 1834 (Fed. Cir. 2004). See also MPEP § 2111.01.

³ engage: to locate (a locking device) in its operative position (<http://dictionary.reference.com/browse/engage>)

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tool to the tool holder. Examiner, hereby, maintains the assessment that Han et al. discloses engaging portions that are “engagable” (lockable) with a tool.

With respect to the rejection of claims 1, 20-25 and 33, Examiner maintains that Huggins et al. discloses a radially inner locked position as claimed.

With respect to the disclosure of Huggins et al., Examiner once again interpreted the phrase “engagable” of Applicant’s claim limitation(s), as supported above, to be a lockable/securable state. Like Han et al., Huggins et al. discloses pivotable engaging portion(s) 40 that engage a tool into a locked/secured state relative to a tool holder. Thus, Examiner also maintains the rejection of Huggins et al. as to the disclosure of a tool holder comprising engaging portion 40 “pivotably movable” to a “radially inner locked position” in which the engaging portion(s) 40 are “engageable” with a retaining collar of a tool.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Gloria R. Weeks/
Examiner, Art Unit 3721

Conferees:
/Rinaldi I Rada/
Supervisory Patent Examiner, Art Unit 3721

/Sue Lao/
Primary Examiner